IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 10090 of 2004(A)

PETITIONER:
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1. ANILKUMAR.K., PUMP OPERATOR, P.H.SECTION
PALA, SREENILAYAM, CHEMMANTHUKARA.P.O., VAIKOM,
KOTTAYAM DISTRICT.

2. M.RAJAN, PUMP OPERATOR, KWA,
KADUTHURUTHY SECTION, KALUNKAL HOUSE,
PALLIKKANAM..P.O., IDUKKI DISTRICT.

3. BAHULEYAN.K.V., PUMP OPERATOR, KWA,
PALA SUB DIVISION, ERATTUPETTA SECTION,
KURUDIYAKULATHUTHARA, KOTHAVARA.P.O., VAIKOM
KOTTAYMA DISTRICT.

4. GEORGE JOSEPH.K., PUMP OPERATOR, KWA,
PALA SUB DIVISION, KUNNATHUPARAMBIL, KADUTHURUTHY.
P.O.,PALAKKARA, KOTTAYMA DISTRICT.

5. ROY VARGHESE, PUMP OPERATOR, KWA,
PALA SUB DIVISION, CHALLALIL HOUSE, PUTHUVELY.P.O.
KOTTAYMA DISTRICT.

6. BENNY MATHEW, PUMP OPERATOR, KWA, PALA
SECTION, KILIRUKUNNEL HOUSE, PUTHENCHANTHA.P.O.,
VAKATHANAM, KOTTAYAM.

7. RAJA MOHAN.K.S., PUMP OPERATOR, KWA,
PALA SECTION, KILIRUKUNNEL HOUSE, PUTHENCHANTHA
P.O., VAKATHANAM, KOTTAYAM.

8. VIJAYAN.P.R., PUMP OPERATOR, KWA, PALA
SECTION, PERUMALIL POTTANNANICAL, VELIYANNOOR.P.O.
KOTTAYM DISTRICT.

9. THANKACHAN.K.S., PUMP OPERATOR, KWA,
PALA SECTION, EDAKKANAL HOUSE, RAMAPURAM.P.O.,
KOTTAYAM DISTRICT.

10. VIJAYAN.M.G., PUMP OPERATOR, KWA,
PALA SECTION, MOOLAVALLIKUNNEL HOUSE,
MEVIDA.P.O., KOTTAYAM DISTRICT.

11. RAJU.A.D., PUMP OPERATOR, KWA, PALA SECTION, AMPALAPPURATHU HOUSE, MUNDANKAL.P.O., PALA, KOTTAYAM DISTRICT.

12. MADHUSUDHAN.P.S., PUMP OPERATOR, KWA, KADUTHURUTHY, PUTHENPURAYIL, MANJOOR SOUTH.P.O., KOTTAYM DISTRICT.

13. BINOY THOMAS, PUMP OPERATOR, KWA PALA SECTION, BHAGAVATHIKUNNEL, KODAPLAMATTOM, KOTTAYAM.

14. P.M.BIJU, PUMP OPERATOR, KWA, KADUTHURUTHY, PARASSERIL HOUSE, KARICODE.P.O., PERUVA KOTTAYAM DISTRICT.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:
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1. THE STATE OF KERAL REPRESENTED BY SECRETARY TO GOVERNMENT, WATER RESOURCES (WS.B) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. KERAL WATER AUTHORITY, REPRESENTED BY ITS MANAGING DIRECTOR, VELLAYAMBALAM, THIRUVANANTHAPURAM.

3. EXECUTIVE ENGINEER, KERAL WATER AUTHORITY, DIVISIONAL OFFICER, KOTTAYAM.

4. ASSISTANT EXECUTIVE ENGINEER, KERALA WATER AUTHORITY, P.H.SUB DIVISION PALA.

5. ASSISTANT EXECUTIVE ENGINEER, KERALA WATER AUTHORITY, P.H.SUB DIVISION, KADUTHURUTHY.

BY ADV. SRI.BABU VARGHESE, SC, KWA
SRI.THOMAS MATHEW NELLIMOOTTIL,SC,KWA
SRI.J.KRISHNA KUMAR, SC, KWA
GOVT.PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 10090/2004 APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: True copy of judgment in O.P. No. 12519/2000 dated 12-10-2001

Ext.P2: True copy of representation dated 28-12-2001 submitted by the petitioners

Ext.P3: True copy of report dated 9-1-2003 of the 3rd respondent

Ext.P4: True copy of letter dated 10-4-2003 from the 2nd respondent to the first respondent

Ext.P5: True copy of the order dated 27-10-2003 issued by the 1st respondent

Ext.P6: True copy of judgment dated 2-1-2002 in O.P No. 19745/1997

Ext.P7: True copy of Government Order dated 18-7-2002

Ext.P8: True copy of letter dated 17-1-2004 issued by the 2nd respondent to the 3rd respondent

Ext.P9: True copy of Circular dated 19-6-2004 issued by the 2nd respondent

Ext.P10: True copy of log book for the period 01-04-2005 to 30-04-2005

Ext.P11: True copy of list of NMR workers

Ext.P12: True copy of order dated 16-1-2006 issued by the 2nd respondent

//True copy//

T.R.RAMACHANDRAN NAIR.J

W.P.(C) No.10090 OF 2004

Dated this the 21st day of February 2007

JUDGMENT

The petitioners 14 in number claims that they are working as pump operators in different sections of the Kerala Water Authority. According to the petitioners they were originally engaged as plumbers/ fitters during 1982-84. They continued to be engaged for maintenance work and thereafter as pump operators and other skilled workers. According to the petitioners from 1993 onwards they are being engaged by Water Authority through contractors. The petitioners submit that they have been objecting to the said arrangement and in connection with their claim for regularisation they had occasion to approach this Court by filing O.P 12519/2000 resulting in Ext.P1 judgment. In accordance with the direction in Ext.P1 judgment they approached the Government. Ext.P3 is a report submitted to the first respondent by the third respondent wherein the details regarding the engagement of the petitioners are mentioned. Their representation has been rejected by Ext.P5, by which the request for regularisation is found to be not in accordance with the rules in force . Petitioners assert that going by the principles stated in Ext.P6 Judgment as well as Ext.P7 order passed by the Government their claims could have

been considered by the Government by giving a similar treatment.

2. The first and second respondents have filed counter affidavits opposing the prayers of the petitioners. The stand taken substantially is that the petitioners are labourers working under the contractors and the wages due to them are being paid by the contractors Essentially it is case where the respondents disclaimed any obligation to provide regularisation as there is no master and servant relationship between the petitioners and the Water Authority.

3. The petitioners have filed a reply affidavit wherein they rely upon Ext.P11 and Ext.12 to contend for the position that the persons who were similarly placed to petitioners and engaged during 1982 to 1993 have been given regularisation by the Water Authority. The counsel for the Water Authority submitted that the persons mentioned in Ext.P11 were not similarly placed as that of petitioners and therefore the petitioners' case is not identical.

4. Since the petitioners assert that persons similarly placed as that of the petitioners were considered for engagement as NMR workers

under the Water Authority , it is for the petitioners to establish their claim by producing materials before the concerned authorities. This Court will not be able to decide the factual disputes between the Water Authority and the petitioners in a petition filed under Article 226 of the Constitution. If the petitioners have got a case that their engagement after 1982-1993 was under different circumstances and that it will enable them to get the benefit of regularisation/ engagement as NMR workers, they can invite the attention of the Government by filing a fresh representation in that regard. If the petitioners file any fresh representation within one month from today projecting their grievances and claims, the first respondent will consider the same and pass orders on its merits after hearing the petitioners as well as the second respondent, within a period of five months from the date of receipt of a copy of this judgment. I make it clear that I have not decided anything on the merits of the claims of the petitioners. This writ petition is disposed of accordingly. No costs.

T.R.RAMACHANDRAN NAIR.JUDGE

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